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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,625	07/16/2001	Peter Kufer	009848-0276371	3114

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EXAMINER	
YU, MISOOK	
ART UNIT	PAPER NUMBER
1642	

MAIL DATE	DELIVERY MODE
04/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/744,625	KUFER ET AL.	
	Examiner	Art Unit	
	MISOOK YU	1642	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,2,4,7,19-23 and 26*.
   Claim(s) withdrawn from consideration: *42-50*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/MISOOK YU/
Primary Examiner, Art Unit 1642

Continuation of 11. does NOT place the application in condition for allowance because: First, applicant's statement that claim 6 had been cancelled is corrected: the error indicating claim 6 being rejected in the previous Office action is regretted.

Applicant argues that the Office erroneously asserted that the first monomer of the bispecificic miniantibody of Miiller et al., comprises "CH1 domain linked via C-and/or N-terminal to two functional domains", but Mtiller et al., discloses in the Abstract, that CH1 is linked C-terminal to anti-EGF receptor scFv 425, the only functional domain present in the monomer, such that CH1 is not linked "via C-and/or N- terminal to two functional domains", and interpreting VH and VL regions of the bispecific miniantibodies as separate functional domains are erroneous. These arguments have been fully considered but found unpersuasive because applicant argues with limitations not present in the claims except claim 2. As for claim 2, the specification at page 5, first full paragraph broadly defines the term "domains, having receptor or ligand function" to denote a three-dimensional structure capable of specifically binding to or interacting with a molecule. Thus VH and VL are broadly interpreted as functional domains as defined by the specification. VH and VL have correct three-dimensional structure. Otherwise they would not been able to bind the antigens tested. Muller et al., teach a heterodimer comprising two monomers, wherein the first monomer comprises CH1 domain linked via C-and/or-N-terminal to two functional domains i.e. VH and VL functional domains of anti-EGF-R scFv fragment, and the second monomer comprises CL1 linked via C-and/or-N-terminal to two other functional domains i.e. VH and VL functional domains of anti-CD2 scFv fragment (total four functional domains in the multifunctional compound, as specified instant claim 4), wherein the two different polypeptides (i.e. anti-EGF-R scFv fragment and anti-CD2 scFv fragment) lack an intrinsic affinity for one another, wherein the heterodimer is formed by a disulfide bond between the CH1 domain of the first monomer and the CL domain of the second monomer (note Fig.1, the heading "Materials and methods" at pages 259-261, and Fig. 2), wherein at least one of the two monomers is to be able to bind a tumor associated antigen (note page 259, right column, 1st paragraph, where it teaches "miniantibodies" capable of binding to the EGR receptor" that is "overexpressed by a wide range of tumors"), wherein said CL1 domain is from the kappa type chain of an immunoglobulin (note line 8 under the sub-heading "plasmid construction" at page 259, left column), wherein the CH1 domain or the CL domain is connected to the different four functional domains, at least two of the four functional domains having a ligand function to a EGF receptor (note page 259, 1st paragraph), namely by a polypeptide linker, or an Ig-hinge region, more specifically an IgG hinge region (note line 8 under the sub-heading "plasmid construction" at page 259, left column and Fig. 1B), wherein the CH1 domain is linked to a histidine tag (note line 2 from bottom of page 259, left column under the sub-heading "plasmid construction" and Fig. 1B).

As for applicant's argument that new claims 49 and 50 should not be withdrawn from the examination, they correspond to groups 13, 16-20, 31, 32, and 44 in the Restriction Requirement mailed on 11/18/2003 is withdrawn. Note that applicant elected group 8, drawn to a compound comprising an antigen binding region specific for a tumor associated antigen.